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October 30, 2018

**VIA ELECTRONIC FILING**

David Butler, Esquire  
Public Service Commission of South Carolina  
101 Executive Center Drive  
Columbia, SC 29210

RE: Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Incorporated for Review and Approval of a Proposed Business Combination between SCANA Corporation and Dominion Energy, Incorporated, as May Be Required, and for a Prudency Determination Regarding the Abandonment of the V.C. Summer Units 2 & 3 Project and Associated Customer Benefits and Cost Recovery Plans  
Docket Nos. 2017-207-E, 2017-305-E and 2017-370-E

Dear Mr. Butler:

On behalf of South Carolina Electric & Gas Company ("SCE&G") and Dominion Energy, Inc. ("Dominion Energy"), we respectfully object to South Carolina Office of Regulatory Staffs ("ORS") effort to ignore the Hearing Officer's Directives and notwithstanding those clear directives now seek to introduce non-prefiled witnesses in its case in chief. The Hearing Officer has repeatedly issued directives as to the procedure to which the Public Service Commission of South Carolina ("Commission") would adhere at the hearing in receiving testimony of prefiled and non-prefiled witnesses. Dominion Energy and SCE&G respectfully assert that permitting ORS to ignore the Commission's procedure should not be countenanced.

By way of background, on September 21, 2018, the Hearing Officer issued Order No. 2018-130-H in which he required parties in the above-referenced matters that "desire at the merits hearing to request the admission of deposition evidence into the record or ... to otherwise present witnesses whose testimony has not been pre-filed" to "furnish a list of such witnesses to the Commission on or before ... October 15, 2018." On October 15, 2018, ORS submitted a list of "potential" non-pre-filed witnesses whose testimony it may seek to offer at the merits hearing to be held in this matter." In addition, ORS filed a Request for Clarification and/or Modification of Order No. 2018-140-H ("Request"), in which ORS advised that it "may choose to utilize testimony of those witnesses identified on the list of witnesses submitted on October 15, 2018." Following ORS's filing of its non-prefiled witness list, the Hearing

(Continued ...)

Officer, by Order No. 2018-147-H dated October 16, 2018, required ORS to identify “the exact names [of its witnesses] to be provided to the Commission.” The Hearing Officer further held “that non-pre-filed witnesses/depositions may only be presented in the proceeding after all pre-filed witnesses have been presented....”<sup>1</sup> Order *Id.* (**emphasis added**).

On October 18, 2018, the Hearing Officer held a telephone conference with the parties. In addition to considering ORS’s Request, counsel for Dominion Energy proposed during the telephone conference “that Order No. 2018-147-H be modified from the present holding that non-pre-filed witnesses/depositions may only be presented in the proceeding after all pre-filed witnesses have been presented.”<sup>2</sup> Order No. 2018-149-H at 2. However, by way of Order No. 2018-149-H, the Hearing Officer denied the request, specifically finding that:

The Commission’s right to hear the pre-filed testimony in the case first in an orderly fashion is clearly within the goal of conducting the proceedings in the most efficient manner. Hearing the pre-filed testimony first will allow the Commission to determine what non-pre-filed testimony may be duplicative, and potentially reduce the need for the presentation of some of the non-pre-filed testimony. Further, hearing the pre-filed testimony first is consistent with the Commission’s normal procedures that require such pre-filings for clarity and transparency regarding the presentation of hearing topics. Accordingly, the request to modify the procedure set out in Order No. 2017-147-H is denied, and the Commission will hear the pre-filed testimony prior to the non-pre-filed and deposition testimony, unless permission to deviate from this policy is granted by the Chairman. Such permission will likely be sparingly granted.

Notwithstanding these clear directives, on October 29, 2018, ORS filed its Supplemental Brief in which it advised its intention to “includ[e] Ken Browne and Carlett[e] Walker in the ... list of non-prefiled Witnesses, even though it is ORS’s present intent to have both appear at the hearing as prefiled witnesses on behalf of ORS” and that it “desires to use their depositions as prefiled testimony.” Supplemental Brief at 2. Apparently, realizing that ORS should show some deference to the Hearing Officer’s rulings, it generated a letter today, October 30, 2018, in which it requests that the previous directives be modified to accommodate its intentions. In

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<sup>1</sup> The Hearing Officer recognized that “permission to deviate from this policy [must be] expressly granted by the Chairman,” but cautioned the parties that “such a circumstance would be the ‘exception’ rather than the ‘rule.’” Order No. 2018-147-H

<sup>2</sup> The basis for the proposal was “that it may be desirable to supplement a party’s pre-filed testimony with either deposition testimony or non-pre-filed witnesses as part of a party’s case in chief” and “[t]o do otherwise ... could, among other things, create inconvenience for a party.” Order No. 2018-149-H at 2.

short, even before the hearing begins, ORS seeks to modify the hearing procedure that has been established for weeks and reconfirmed just 11 days ago.

ORS suggests that the filing of the depositions of Mr. Browne and Ms. Walker are tantamount to the filing of prefiled testimony. As the Hearing Officer knows as does ORS, such a suggestion is simply absurd and ignores decades of well-established procedures employed by the Commission.

In summary, SCE&G and Dominion Energy do not believe that the Hearing Officer's directives establishing the procedures in these dockets should be ignored or modified. To do otherwise will indicate that the Hearing Officer's directives in Order No. 2018-149-H at page 3 stating that "permission [to deviate from the established procedure] will likely be sparingly granted," is meaningless, and an orderly, thoughtful established procedure may well turn into chaos. SCE&G and Dominion Energy therefore respectfully request that the Hearing Officer's Orders that deposition testimony and non-pre-filed witnesses be presented only after the presentation of all pre-filed witnesses be respected and enforced.

Thank you for your consideration of this objection to ORS's request. **If further information is needed, please do not hesitate to contact us.**

Very truly yours,



K. Chad Burgess

KCB/kms  
Enclosure

cc: All parties of record in Docket Nos. 2017-207-E; 2017-305-E; and 2017-370-E  
(all via electronic mail only)